

# NEWINGTON TOWN PLAN AND ZONING COMMISSION

Regular Meeting

March 13, 2013

Vice-Chairman Michele Camerota called the regular meeting of the Newington Town Plan and Zoning Commission to order at 7:00 p.m. in Conference Room L101 at the Newington Town Hall, 131 Cedar Street, Newington, Connecticut.

## **I. ROLL CALL AND SEATING OF ALTERNATES**

### Commissioners Present

Commissioner Carol Anest  
Vice-Chairman Michele Camerota  
Commissioner Michael Camillo  
Commissioner Cathleen Hall  
Commissioner David Lenares  
Commissioner Stanley Sobieski  
Commissioner Frank Aieta-A  
Commissioner Kenneth Leggo-A

### Commissioners Absent

Chairman David Pruett  
Commissioner Audra Ekstrom-A

### Staff Present

Craig Minor, Town Planner

Commissioner Leggo was seated for Chairman Pruett.

## **II. APPROVAL OF AGENDA**

No Changes.

## **III. PUBLIC HEARING**

- A. Petition 38-12: Special Exception (Section 3.15.8: Motor Vehicle Service Use) at 2903 Berlin Turnpike. Wex-Tuck Realty LLC, owner; Bismarck Real Estate Partners Inc., applicant; Jason Mikrut P.E., 54 Tuttle Place, Middletown, CT, contact person. Continued from February 13, 2013. Continued from February 27, 2013.**

Vice-Chairman Camerota: Is the applicant here? Please come forward and state your name and address.

Amy Souchuns: Good evening Commissioners. My name is Amy Souchuns, I'm an attorney with the law firm of Horwitz, Sagarin, Slossberg and Knuff and with me is Jason Mikrut who has been here for the past two hearings. We're just here to follow up on a few items and Jason will walk you through the technical revisions that we have, and as I understood from the Commissioner comments, the updated elevations that have been provided and will present them to you. The other two items that I wish to follow up to Mr. Minor's report, this is in respect to items two and three, the retaining lot condition and the parking lot. (Inaudible)

Before we turn to Jason, I just want to clarify a couple of comments in regard to Dr. Bielitz's correspondence from late last week on the noise issue. In particular what I wanted to clarify was, she indicated that Attorney Knuff had indicated that (inaudible) and that is not what he said. If you go back to the minutes, he was speaking of impulse noise, the typical power tools, an air wrench to remove the lugs from a tire, would be just a short burst of noise, about a second, even if that was (inaudible) the clarification is based upon the distance from the bay doors to the residence would be less than the 55 decibels, so I just wanted to clarify that, just to address the issue. The other clarification, I understand that there were photographs of the trees under the current conditions, and I have a photograph from Google Earth, a summer photograph that shows that there is significant tree coverage there, and it is (inaudible.) I think with that I will turn it over to Jason.

Jason Mikrut: My name is Jason Mikrut and I'm a senior project engineer with Vanasse, Hangen and Brustlin and as I think everyone is aware, one of the main issues with this site has been the discussion of whether or not the bay doors have been screened from view from the Berlin Turnpike. I believe at the previous meetings we reviewed several different views and we showed that from all these views that there is significant screening from natural vegetation and then also the proposed landscaping and the vegetative berm that we are proposing to construct on the site. In addition to that, Commissioner Hall had a great idea which was to take a look at the building and the doors themselves and see what we could do architecturally to screen them even further, so this is our previous architectural elevation that we had, you can see that the doors are white, they stand out a lot compared to the building, the building materials, and the windows are clear glazing which are visible to see through. We went and we worked with our architects to try to find an option that would be more screened from the street and not allow views into the bays from the overhead doors. What we came back with is that we have doors that more closely match the building, they will blend in with the building, they are tan in color which will be close to the building colors that surround it. The glazing that is there is going to be obscured glazing, and it will not allow views into the bays from the exterior, so really, what we have now is that there will be no views whether or not it will be screened from the road, if you believe that we provided significant screening and the doors won't be seen from the Berlin Turnpike, but even if you were there, if you were to see them, then you would have the addition of architectural screening as well.

Another issue that I wanted to address, the Chairman had mentioned a couple of times looking at the widening on Main Street and the (inaudible) of traffic in this area as well. We did a study and it showed that a dedicated right hand turn lane into the site was not required. The study met the DOT highway design manual standards but the Chairman had requested that we look at maybe doing some kind of sliver widening to allow a car to by-pass in that area, so if someone were making a left hand turn into the assisted living facility that is across the way from our driveway, someone could by-pass on the right. So what we are proposing is to do the sliver widening, eventually creating a twenty foot wide (inaudible) to allow that by-pass of traffic, and what we are proposing is that we will take it to DOT and we will present it to them. We do not have control over DOT's review of this, we will take it to them and seek their approval. I think Craig has noted in the staff report that we have agreed to do this, but there will be a condition that we will make the attempt with DOT but approval will not be conditional upon that, but we are proposing that we will take this to DOT for approval.

Vice-Chairman Camerota: Any Commissioner comments? We will take comments from the public now, thank you. Is there anyone from the public wishing to speak in favor of this petition? In favor. Is there anyone wishing to speak against the petition?

Domenic Pane, 638 Church St. Newington: Thank you Madam Chairman, Commission members. To the Chair, I'd like to make a note for the Planner on whether or not a letter from December 11, 2012 from East PBE has been entered into the minutes. I haven't seen it, and I was wondering if it was an oversight. If that could be addressed I would appreciate it.

Craig Minor: No, I didn't realize that was submitted as part of this application, but if you wish to do that I certainly can.

Domenic Pane: Well, this letter was given December 11<sup>th</sup> and you said in the meeting that you didn't want to present it because it concerned this topic and you told me that you were saving it for this application. I can give you a copy if you would like and if you can enter it into the minutes I would appreciate it. Thank you Mr. Minor.

Madam Chairman and Commission members, I'm probably going to go over five minutes, I'm going to apologize in advance, I'm going to try to do this as fast as possible. I appreciate whatever you can do for me on the time.

Since the attorney for the applicant has grouped all the applications together as stated on February 13<sup>th</sup>, I think we can probably hear all of these matters simultaneously, thus you will hear me make comments on the site plan, as well as the Special Exception.

Vice-Chairman Camerota: You realize that the site plan is not part of the public hearing.

Domenic Pane: Well he made it part of the public hearing in that first meeting.

Vice-Chairman Camerota: I just wanted to state that for the record.

Domenic Pane: If he didn't group them together, then I wouldn't be speaking about it, but since he did group them together, then I feel that I can talk about it. Section 5.2.6 A. The need for the proposed use in the proposed location was not addressed by the attorney for the applicant who stated on February 13<sup>th</sup> 2013 that need was not relevant in zoning matters. Well, according to the town's regulations, 5.2.6 A, it addressed need and the use for the proposed location. The attorney's comments on Bob and I trying to monopolize the auto uses was totally inappropriate. Competition is what this country is all about, and as a past Chairman and Commission member here, I can tell you that I don't ever recall Bob Amenta or myself coming in here and ever complaining about any of the other auto uses or tire uses that ever came onto the Berlin Turnpike, so I just wanted to state for the record that I think that was a totally inappropriate comment.

The following comment is a reference to a December 7, 2012 Hartford Courant article. The Town Planner, Craig Minor and the Planning Board Chairman Dave Pruett have both said, the Commission considered lifting the ban on new auto related businesses in part because the chain store expressed interest in opening on the turnpike. For this reason, which has given the appearance of designing the auto regulations to fit the applicant's land instead of being totally impartial, I object.

This Commission has done a disservice to the citizens of this community for not providing proper protection from auto related businesses compared to drive through restaurants with outdoor speakers or intercoms, which this Commission felt that it was so important to protect the residents from the noise that it increased the distance requirements to 300 feet for an intercom. Yet it left the auto related businesses at 100 feet. Doesn't make any sense. The auto related business is probably two to three times more offending than a speaker at a drive through. I can understand the Commission wanting to be more business friendly, but you must make an effort to protect the residents from commercial property expansion when it is close to the citizens of this town. As a former Chairman and Commission member for over ten years, I want to provide some history. Number one, Express Lube next to the Bertucci's was denied based on the garage doors facing the turnpike. Number two, Speedy Muffler

which was also Midas, the Commission asked them to turn the building to comply with the garage doors, they did, and the building is in. Wal-Mart auto related site was approved having the condition that during business hours that the garage doors must remain shut to protect the residents. The statement in your regulation that says, Commission reserves the right to alter this requirement for corner lot or when in its opinion the natural topographic or man made utilities on the site clearly indicate that the requirement is inappropriate. Never before has this Commission interpreted that regulation the way that you are interpreting it. We have always used it for a mountain, or a utility, not a man made berm. The regulation, 6.1.1.7 says, Overhead service doors shall not be permitted on a public street side on an auto related use or motor vehicle service use. The Commission can't alter this requirement because of the words shall not. It means mandatory and not discretionary according to your regulations 9.1.2. Regulation 5.2.6 G, Safeguards to protect the adjacent property and the neighborhood in general from detriment including, but not limited to proper buffering. The trees on the existing land do not make up an adequate buffer that will screen the residents nearby. If a buffer is needed, the Commission must go to the buffer regulation, where it says, 6.10.5 D, a minimum buffer area shall be not less than twenty-five feet in width, and planted with evergreens no fewer than two rows, nor further than fifteen feet apart with trees planted with no more than fifteen feet apart along each row, staggered to provide the maximum screening and using trees that are not less than five feet in height at the time of planting. Your parking standards, never before has this Commission allowed parking spaces inside the building to be counted for parking standards. By doing that, if this becomes a different use, you are subjecting the property to not being at full capacity. The applicant has not demonstrated a delivery truck, an 18 wheeler, can make deliveries without crossing parking spaces. The attorney uses the fact that Bonefish is not open for lunch, but if that is the standard he is to be using, then it should be a condition of approval that Bonefish, or any other use, future use, forever, can never be open for lunch time. The Commission is not considering anything in the 2010-2020 Town Plan of Conservation and Development. Just a few, page 24, 3, allow for compatible development and redevelopment along the Berlin Turnpike. 4. Protect residential neighborhoods and transitional areas adjacent to commercial properties with the increased landscaping buffer and use controls to mitigate potential nuisances. Page 32, residential development, general goal, maintain quality residential neighborhoods by avoiding the intrusion of non-compatible uses, non-residential traffic plan with sufficient buffers adjacent to commercial uses. Lastly, some comments concerning Commissioner Lenares's comments at the February 27, 2013 meeting, just so the public knows, that's what I want, I want the public to know. Litigation does not tie your hands as a Commission, it gives you opportunities to fix your regulations through a settlement, so I'm glad to hear that Commissioner Lenares and Chairman Pruett agreed that we were one hundred percent right, that the regulations aren't done right, and as you know, as Commission members, you should all know that by law, we only had thirty days to file, so we had to file, but that didn't stop this Commission from coming to us and trying to work things out. I pleaded with this Commission on August 22, 2012 to re-look at this. I was ignored. I would like the minutes of that meeting part of the record too. Just simply, if you did allow this, make sure that there is sufficient buffer, require that twenty-five feet. The garage doors, there's no reason why they should be facing the Berlin Turnpike. Have a sufficient buffer, and make sure that they can pull in there for (inaudible). If their trucks are going to pull in the parking spaces and you have no control over that, and then if Bonefish goes out, and another company comes in, then what kind of problems is that going to lead to in the future? Lastly, if you had an auto related use next to your house, maybe one house over, don't you think that would be a little too close for comfort? Thank you very much.

Vice-Chairman Camerota: Anyone else wishing to speak in opposition to this application?

Laura Bielitz, 2110 Main Street, Newington: I understand that the only item at issue with Firestone is the bay doors. I'm here to urge the committee to think a little bit deeper before you vote to approve that exception. Please listen to my considerations and take them into account when you approve or disapprove the bay door exception. As Colleen brought up two weeks ago, Newington's Plan of Conservation and Development from 2010 to 2020 specifically discusses use along the Berlin Turnpike and discourages auto related uses amongst others. I understand that this is a guide and not a plan, but I question why we bother having this if we are not going to follow through with it. You may think that this Firestone adds great value to Newington, and may only impact one or two families who are typically here at the public hearings. But, what if it were your yard, what if it was your son or daughter's yard that it was next to? Wouldn't you want the committee to uphold the plan that is in place for the next eight years? One of the statements made by the law team was that Glastonbury had a Firestone, and he said, if it's good enough for Glastonbury, it's good enough for Newington. Well the Firestone in Glastonbury is not next to any residence. Secondly by putting a Firestone in the proposed location, we would not be like Glastonbury, we would be creating a town with lower home values much like, and I don't mean any disrespect, more like New Britain. So let me just tell you why I say that and I can only speak for my specific example, I liken this situation to a crack that propagates. Once it starts, it's very difficult to stop and the crack only gets worse. Colleen and I own a house that at one time had a historical status, it was actually moved from the Berlin Turnpike into the location that it is now, from at the time, a leader of the historical society. It is a valuable house to Newington. We've invested in this unique home and it's surroundings. We consistently add value to our home, to our neighborhood, which in turn adds value to the community. Colleen and I are two well educated women. I am a mechanical engineer by degree and on program to get my MBA and Colleen is obviously a PhD. We both have very successful careers. We chose Newington specifically because of the good school system, the central location in Connecticut and because of the strong sense of community that we saw here. In my opinion, we are ideal residents. We are high income earners, solid contributors to society, who take pride in our home. If you put a Firestone and all of its noise and traffic less than 120 feet from our property, and think about how close 120 feet are, that's ten basketball hoops, twelve basketball hoops, not very far, you will essentially devalue our home and drive us out and you will quickly see the neighborhood diminish. There is also the Hopkins Development that is right behind us which would also be devalued. So as a result of adding this business which specifically goes against the town plan, you will be pushing out educated high income families and forcing us to move. So then what will happen? Well, we'll probably move to a town like Glastonbury where they have a great reputation for attracting high income people and keeping them there, because they are protecting the residents. Alternatively, in Newington with the value of the homes in the area plummeting, you're bound to attract more low income families and this behavior will perpetuate. The area will start to look more like New Britain instead of Glastonbury. It's inevitable, so I ask you to please rethink about the fact about how this impacts, not only a few families, but the whole Town of Newington. The (inaudible) property, the Town will degrade, if you continue to make decisions like this. Thank you.

Vice-Chairman Camerota: Thank you. Anyone else wishing to speak in opposition to this petition?

Colleen Bielitz, 2110 Main Street, Newington: Good evening Commissioners. I am passing out a list of tools that create the most noise in a (inaudible) shop but I would like to point out that many of them are used in an auto repair shop, such as an air gun, air ratchet, riveter, and the lowest and highest noise levels are listed as you can see and they are all above the 55 decibels. Attorney Knuff stated that the noise level ordinance in the last meeting and also the fact that there is a noise limitation that is permitted in the residential zone which is fifty-

five decibels. By his own admission, which is documented in your minutes from 2/27, Mr. Knuff provided you with a piece of equipment which emitted 94 decibels and measured it 284 feet away. According to Mr. Knuff, the sound emission at 284 feet was over the 55 decibel limit. There is no manipulation of what was stated, and whether the noise limit was over by .1 or by .22 decibels is irrelevant, it was over the limit, period. It was then stated by Attorney Knuff, and I quote, whether or not we comply with the 55 decibels is not relevant because it was an impulse noise. Actually it is extremely relevant because the noise exceeds that permitted in a business zone and an impulse noise, in a short duration, I'm sorry, an impulse noise, according to your mandates is a short duration, less than one second. So do you mean to tell me that every tool in the shop that creates a sound over 94 decibels will only make less than one second's worth of sound? And again, that 94 decibels measured 285 feet away, not 100 feet away was over the 55 decibel mark. Again, over your ordinance. I would also add that air chisels, which is on the list, and I know that the shop will use, create between 106 and 108 decibels of sound. The noise ordinance states that no person shall cause or allow the emission of impulse noises in excess of 100 decibels peak sound pressure at any time. I will also note that the sense volume for the loudness of the sound depends on several factors. The amplitude, the sound pressure level, the frequency and the time behavior of the sound. I have not seen any evidence submitted that indicates how the loud sounds of this automotive center will be contained.

I would also like to point out that the picture that was passed around from Google Earth first of all, Google Earth is not updated regularly, secondly, there is another commercial property between our property and the planned Firestone site and most of those trees came down in the last couple of storms that we have had.

In regards to your increase in traffic, I would also like more than a sentence from the Chief of Police Mulhall stating, I've looked over the plans and do not see any issues with traffic flow and parking. In this age of information and analytics, I find it preposterous just accepting a one line e-mail when not a shred of data has provided or shown how the town proposes to enforce traffic and safety ordinances to protect its residents. If it is the decision of the Newington Town Plan and Zoning Commission to go against better judgment, to make an exception as it did on April, 2012 by introducing the allowance of automotive uses by special exception, then I ask the Commission to have Firestone indicate and implement how sound buffers will be used both inside and outside of the building to ensure that they will remain in compliance with the noise ordinance. It is my understanding that the Wal-Mart Tire and Lube express was approved with the condition that the bay doors be kept shut. I would ask that the same requirements be imposed on Firestone if this building is to be constructed.

In March of 2000, developers of Wal-Mart agreed to install additional screening in the rear of the building as buffers to protect the residential neighborhood and they approved the proposed landscaping. Wal-Mart in addition responded to traffic concerns by submitting a proposal to the State Traffic Commission to add a left turn lane onto Deming Road. I would like Firestone to propose something similar to the State, exiting traffic off of the property and onto the Berlin Turnpike. If, as Attorney Knuff has stated, that it would only increase traffic by two percent, and that two percent wouldn't do any damage to Main Street, then I'm sure it would be fine for the Berlin Turnpike as well. Thank you.

Vice-Chairman Camerota: Thank you. Anyone else wishing to speak in opposition to this petition?

Lori Dabowski, 2107 Main Street, Newington: I think it's sad, that this Commission would make any special exceptions for this kind of building in our neighborhood. I don't think the doors should be allowed to be open on this business because, for example, they are building Bonefish, and they dropped a bucket at quarter of seven the other morning, which woke me up out of bed. It's winter, the windows are closed, the storms are down, the furnace is running, and it scared the living day lights out of me. It was a big smash. Bonefish, if you go

to their web site, you will notice that their plan, right now, is to be open for lunches in the future, and Sunday brunch. So, if Firestone is open on Sunday, and Bonefish is proposing to open for Sunday brunches, where are these people going to park. I just think it's sad, and I'm opposing it. I live in an historical house, over 200 years old. It's sad. Thank you.

Vice-Chairman Camerota: Anyone else from the public wishing to speak in opposition to this application? Seeing none, rebuttal by the applicant?

Amy Souchuns: Just a couple of points and then I will turn it over to Jason. I think first of all one of the things that was shown on all of the plans, our site is not adjacent to the residence, there is an intervening building, so with all due respect to the provisions, and some of the other conditions there is an intervening DOT property that is directly adjacent to that residence. With respect to the issue of the parking and the change, even a permitted change of use there would be (inaudible) in connection with that (inaudible) with the change of use. (Inaudible) and the change would not be allowed if the issue of parking was not in compliance with the regulations. I think the only other thing, the noise issue. We've gone back and, by at the end of the day, we're looking for compliance. The regulation is adopted by the Town Council and is enforced by the Police Department. It's not the responsibility of the town Planning and Zoning Commission. So there is an enforcement procedure in the regulation itself, lays it out, we (inaudible) and ultimately it is enforced by the Police Department. (Inaudible)

I'll turn it over to Jason to talk a little bit about the operation between Bonefish and Firestone.

Jason Mikrut: First of all, I just want to address the traffic issue, in regards to potentially having a curb cut to allow traffic onto the Berlin Turnpike, that not only is a DOT issue, it goes beyond that, it's actually a legislative issue that is not necessarily in DOT's hands. Additionally a curb cut on the Berlin Turnpike is something that town staff and this Commission I believe has worked to further limit, as part of the approval for the Bonefish property, that before was a much larger access into the site. As part of that development it was made to be a smaller access, it was made to deter people from trying to go out towards the Berlin Turnpike and create confusion in that area. Again, additionally Firestone only creates twenty-nine trips in the peak hours, that's one vehicle exiting or entering the site every two minutes. I understand that that is a slight increase in traffic, but we also have agreed to make the traffic upgrades to Main Street entrance, and really the major generator involved in this whole shopping center here is the Bonefish. The Firestone is really a minimal part of the additional traffic that is going to be at this site. In regards to the operation of Bonefish, Firestone as we addressed before, Bonefish does not operate during the day time. As Amy said, if there were a change in use, and that were to no longer be the case, they would be required to come back before the Commission. So we feel that the operation between Bonefish and Firestone are ideal. You have a business in Firestone that operates mainly during the day time and just into the early hours of the night, generally closing by seven o'clock I think it was, and Bonefish which generally doesn't open until just before Firestone is closing. So the majority of this traffic won't overlap. Deliveries won't overlap, and we think this is really the perfect use. Any other use that would be placed in the location of the Firestone site, besides Firestone, would have a much greater traffic impact than Firestone would. Any retail use, restaurant use carries a much higher rate of traffic than Firestone. As John mentioned at previous meetings, this is really the least intensive use that you are going to get in that regards on this site. I just wanted to point those things out.

Vice-Chairman Camerota: Craig, do you have any comments based on this information?

Craig Minor: Well, not comments per se, but I do want to, the letter that Mr. Pane presented, yes, I did receive this back in December, but I was not aware that it related to the Firestone

application because it only, well down into the letter it alludes to Firestone, but I'll read it into the record, as requested, with the Commission's permission.

From East PBE in Newington, December 11, 2012. Mr. Minor: Please accept this letter in my absence. Due to a previous engagement I am unable to attend the TPZ meeting this evening, December 12, 2012 and wish to have my concerns read at the public discussion. My name is Kevin Keroack and I'm the General Manager for East PBE, Incorporated located at 289 Pane Road in Newington. I'm writing in regards to the non-conformity issue that is currently affecting auto related businesses in the town. My understanding of the matter is that when our company opened in the Town of Newington in 1988 we were conforming to all planning and zoning regulations. Some time between then and now we have become a non-conforming business as a result of an ordinance change within the town, not as a result of changing our original scope of business or the services offered by our company. It is also understood that the ordinance that resulted in our non-conformity has been changed to allow further auto related uses and did not address the non-conformity issue to existing businesses.

My primary concern with the current zoning regulations is the non-conformity issue and not the prevention of new businesses coming to town. Whether the proposed Firestone project goes forward or not, is not my concern. East PBE is a distributor of heavy construction equipment and not an automotive repair facility. Our only relationship to the auto related businesses in town is the fact that we hold a dealer's license with the State to sell and perform inspections of the equipment trailers that we sell. The fact that East PBE Incorporated's ability to expand our facility to grow our business or rebuild if we sustain major damage of fifty percent or more, is very concerning.

Another very important aspect of the non-conformity is the ability to mortgage or refinance the business. I am confident that in this economy the banks would be a little leery of lending money to a business that does not conform to the regulations of the Town that it is doing business in.

Please understand that my position is not adversarial with the Town of Newington. I'm simply asking the town to revise the current regulations that currently affect our business. I'm sure there is a mutually acceptable remedy to this problem and look forward to the issue being resolved. Thank you for your time and understanding. Sincerely, Kevin Keroack, East PBE, Inc. I have no additional comments.

Vice-Chairman Camerota: What is the pleasure of the Commission, oh, I'm sorry.....

Domenic Pane, 638 Church Street: I would like the Commission to reread your buffer regulations, because no where in there does it state that we have to abut a residential property to have a buffer, and it has happened in the past where a property has had a buffer even though there is a commercial property and then residential. There is a site, that they can see through the woods there because of the type of trees that are there, so a buffer in this instance is required, and should be required to protect the residents, and when you look at a buffer, what the minimal requirement is, is twenty-five feet. If they can't even comply with a twenty-five foot buffer, keep the garage doors shut, and have some sort of protection for the residents then you guys are doing a great disservice to the Newington residents. Thank you very much.

Vice-Chairman Camerota: Anyone else from the public? Seeing none, the consensus of the Commissioner on closing it and moving it to Old Business? Okay, we will close it and move it to Old Business.



**B. Petition 08-13: Special Exception (Section 6.2.4 : Freestanding Business Sign) at 1095 Main Street, New Center Corp., owner, Sign Pro Inc., applicant; Kyle Niles 168 Stanley Street, New Britain, CT, contact.**

Kyle Niles, 169 Stanley St., New Britain, Connecticut: I'm project manager for Sign Pro. We're here to seek approval for a free standing ground sign for Farmington Bank at 1095 Main Street. This is the last part of the project. The wall signs and the finder signs have been installed and because this is a free standing ground sign we are here for a special exception. As you can see it conforms to all of your town requirements as far as height, square footage, I worked with Mr. Hanke a couple of months ago to get this whole plan together, between Farmington Bank and the landlord and Dunkin Donuts, so we worked out all of the square footage so everything here conforms. This sign is going to be ten feet high, it's constructed out of aluminum, four by four poles, it will be set in concrete. It is a two sided aluminum sign box, with aluminum painted faces, stencil cut, with push through acrylic letters. It will be lit with fluorescent lamps, it's got a pediment on the top of the sign which was also requested by Mr. Hanke to conform with the Main Street look. I don't think there is anything else I have to offer.

Commissioner Anest: What is the height where the sign will.....

Kyle Niles: It's ten feet to the very top.

Commissioner Anest: Right, from the ground, to where the sign starts, it's going to be off the ground, right?

Kyle Niles: Right.

Commissioner Aieta: It's twenty-five and sixty-six from 120. I just gave you the figures, I'm not doing the math.

Kyle Niles: We've got a couple of feet.

Commissioner Aieta: Almost three feet.

Kyle Niles: And there is a rider panel on the bottom, that is not going to be illuminated, that's just a non-illuminated panel for the ATM but there should be ample clearance.

Commissioner Anest: (Inaudible)

Kyle Niles: But it's going to be set back, meeting all of your setbacks plus the state road setbacks, and it's actually going to be almost in the exact same spot that the existing sign was on that property before, it's going to be pushed back away from the road, a few more inches. There's not much space in that bed, they redesigned the shape of that bed, but it will be right on the edge of the parking lot to conform with everything.

Vice-Chairman Camerota: Craig, any comments?

Craig Minor: Only that I can confirm that it does meet all the requirements as far as the setbacks and the distance from the ground to the bottom of the sign looks like 59 inches, so about five feet.

Commissioner Aieta: No.

Craig Minor: Fifty-nine inches. Sixty, divided by twelve.

Vice-Chairman Camerota: Any other Commissioner comments?

Commissioner Hall: What was the illumination again?

Kyle Niles: It's fluorescent.

Commissioner Hall: From the top down, or inside the panel?

Kyle Niles: They are running vertically inside the panel, and the only part that is going to be illuminated on the Farmington Bank sign is just the logo and the letters because they are acrylic push through letters. The background is a solid background, so those letter are push through.

Commissioner Sobieski: Just curious, is there any break-aways on this, in case a car hits it, because it is close to the road.

Kyle Niles: Nobody had said anything.....there are no breakaways, no.

Commissioner Sobieski: No, I just was just wondering.

Vice Chairman Camerota: Anyone else from the Commission. This is a public hearing, so we will hear from the public.

Kyle Niles: Thank you.

Vice-Chairman Camerota: You're welcome. Anyone from the public wishing to speak in favor of this petition? Anyone from the public wishing to speak in opposition to this petition? Seeing none, what is the will of the Commission? We will close this and move it to Old Business.

**C. Petition 09-13: Special Exception (Section 6.2.4 Freestanding Business Sign) at 2909 Berlin Turnpike ("Bonefish Grill") Bonefish Grill, applicant; Wex-Tuck Realty II LLC, owner, Darcy Roy/National sign, 7 Burning Tree Lane, Wallingford, CT, contact.**

Vice-Chairman Camerota: Is the applicant here? Would you state your name and address for the record.

Darcy Roy, 7 Burning Tree Lane, Wallingford, Connecticut: I'm here tonight to request a special exception for a pylon sign on the existing pole and location. I have some revised drawing that I just got this afternoon, so I will pass those out. The sign company has decided to reduce the height of the existing pole, originally it was proposed for eleven feet, we are going to reduce that down to nine foot ten inches so the taller cabinet will not exceed the fifteen overall feet that is there now. The overall dimensions of the proposed sign are five feet (inaudible) by ten foot wide which gives fifty-nine square foot per side. There is a two inch black retainer that surrounds the entire sign, also separates the two sign panels from each other. Each of the two tenant panels is marked with a two foot (inaudible) Bonefish Grill is, as you can see, will occupy the bottom space and the Urgent Care Facility will occupy the top. The sign company asked for a drawing of what it would look like with both signs, but we did not received anything from Urgent Care. The sign will be illuminated, and the only part of the sign that is going to be illuminated is Bonefish Grill. I did work with Art Hanke and

Art allowed approximately 225 square feet on the site, with two eighty-one square foot wall signs that we are proposing, so that is about 152 square feet, and then when you take this into account, we came in under our allowable signage by about 18 square feet. Are there any questions?

Vice-Chairman Camerota: Craig?

Craig Minor: No, it's within the regulations as she said.

Vice-Chairman Camerota: Any Commissioner comments, questions?

Commissioner Hall: The only question that I have, is this going to be the only sign because this is on that little, I'm going to call it an island, where Main Street comes out to the pike, right opposite Bertucci's and the entrance is actually farther north, so is that the only sign?

Darcy Roy: Yes, that's what is there now, that was for the last tenant.....

Commissioner Hall: Yes, because their building was on the corner. Okay.

Vice-Chairman Camerota: This is a public hearing so we will see if the public has any comments.

Darcy Roy: Thank you.

Vice-Chairman Camerota: You're welcome. Anyone from the public wishing to speak in favor of this petition? Anyone from the public wishing to speak in opposition? Seeing none, what is the will of the Commission, close it and move it forward?

Commissioner Anest: We should close it and move to Old Business for our next meeting.

IV. **PUBLIC PARTICIPATION** (for items not listed on the Agenda, each speaker limited to two minutes.)

Rose Lyons, 46 Elton Drive: At your last meeting which was recorded by NCTV, unfortunately even though you have some new microphones here, some of the Commissioners are not able to be heard either because they are turning to talk to the applicant, or the person next to them, and NCTV has no way to control the volume if you don't speak into the microphone.

It would be nice on the applications for a freestanding sign if there was some kind of display for the public. I know that Commissioners have the illustrations, but just by listening to what you are saying it's difficult to judge what you're seeing.

Vice-Chairman Camerota: Thank you. Anyone else from the public wishing to speak on items not listed on the agenda?

Domenic Pane, 638 Church St.: Thank you. I would like to submit for the Commission a letter from the Department of Transportation which is a public bid on a house at 2116 Main Street, Newington which is a small cape style house and it says that it's in a PD Development area and a residential usage is not permissible in this zone, and I hope that the Commission really looks into this, because if that house and that one acre of property is turned into non-residential, it's going to be devastating to the neighborhood area. Thank you.

Vice-Chairman Camerota: Thank you.

Commissioner Aieta: I want to rebut that, to talk about it.

Vice-Chairman Camerota: Okay, anyone else wishing to speak on items not on the agenda.

**V. REMARKS BY COMMISSIONERS**

Commissioner Aieta: If I might, this is from the Department of Transportation, I have what you just passed out. That property is in a residential zone. So, whatever they passed out, is not correct. It's in a residential zone, so if they are proposing or saying that this property is in a PD Zone, they're not correct.

Commissioner Anest: Craig, can we talk about that a little because I think when the property was turned over to them, years and years ago, that's what someone said to me....

Craig Minor: My understanding is, and I haven't read the letter yet, my understanding is that DOT is warning people that the building, I'll call it a building, may not be used for residential purpose, so even though it looks like a house and it used to be a house, it's not a house anymore. It's a building in, and it is in the PD Zone Mr. Aieta, and I'll show you the regs.

Commissioner Aieta: We need a map to be able to see what, where these properties are, because I was under the understanding.....

Commissioner Anest: We need that zoning map.

Craig Minor: I bring it and then it doesn't get used and then I didn't bring it, I have a zoning map with me.....

Commissioner Aieta: That is right on Main Street and I thought the parcels on Main Street were all residential and if they're not, then we should have changed that to include all of those parcels because now there is no buffer zone at all between the residence and the commercial. It goes right up to Main Street. It's a problem on our behalf.

Craig Minor: Right, the Bielitz's house is the first one in the residential zone going north on Main Street.

Commissioner Hall: And that's really no different than we had when we had Liberty Bank. Remember that was at the time that I wasn't really crazy about having the commercial come right up to the residential, but that's the way it is, and that's the way it is down here too.

Vice-Chairman Camerota: I'm sorry, I moved too fast from Public Participation. Please say your name for the record.

Lori Dabrowski, 2121 Main St. I own the property across the street from 2116 Main Street. I just did research with the State of Connecticut and when I291 bought all that property, that house was part of that property so they chunked it all together and somehow that house ended up being Planned Development. So unless someone challenged it, it's right across the street from my house, where my daughter lives, and she chooses not to live there anymore if they are going to develop it into another Firestone or whatever. It's only one acre, so I don't understand why you are marketing it as Planned Development.....

Commissioner Aieta: We're not marketing it, the State of Connecticut is.

Lori Dabrowski: Yeah, but are you going to let it stay that way? They said it was your decision to change it. I'm just telling you, I called and I asked. The Town of Newington made that Planned Development instead of Residential.

Vice-Chairman Camerota: Okay, thank you. Any other Commissioner comments?

## **VI. MINUTES**

February 27, 2013

Commissioner Sobieski moved to accept the minutes of the February 27, 2013 meeting. The motion was seconded by Commissioner Camillo.

Vice-Chairman Camerota: Norine, I did notice one thing, I think it's on page 21, 22, changed Cary Gagnon to Cory.

The vote was unanimously in favor of the motion with six voting YES.

## **VII. NEW BUSINESS**

- A. **Petition 39-12** Site Plan Approval (Firestone Complete Auto Care) at 2903 Berlin Turnpike. Wex-Tuck Realty LLC, owner, Bismarck Real Estate Partners, Inc., applicant; Jason Mikrut P.E. 54 Tuttle Place, Middletown, CT contact person.
- B. **Petition 40-12**: DMV Location Approval (Firestone Complete Auto Care) at 2903 Berlin Turnpike. Wex-Tuck Realty LLC, owner; Bismarck Real Estate Partners Inc., applicant; Jason Mikrut P.E. 54 Tuttle Place, Middletown, CT, contact person.

Discussed Under Public Hearing

## **VIII. OLD BUSINESS**

- A. **Petition 05-13**: Special Exception (Section 3.17.8: Motor Vehicle Service Use) at 476 Fenn Road. Khalid Mahmood, 153 Mansion Road, Cheshire, CT 06410, owner/applicant/contact.

Commissioner Camillo moved to approve Petition 05-13; (Special Exception Section 3.17.8: Motor Vehicle Service Use) at 476 Fenn Road. Khalid Mahmood, 153 Mansion Road, Cheshire CT owner/applicant.

### **Findings:**

The site is appropriate for the re-establishment of a gas station activity.

### **Conditions:**

None.

The motion was seconded by Commissioner Sobieski. The vote was unanimously in favor of the motion, with six voting YES.

**B. Petition 06-13: Special Exception (Section 3.15.3: Outside Restaurant Seating) at 3260 Berlin Turnpike ("Plaza Azteca Restaurant") Hector Angel, owner; Manuel Rubio, applicant/contact.**

Commissioner Sobieski moved to approve, with conditions, Petition 06-13: Special Exception (Section 3.15.3: Outside Restaurant Seating) at 3260 Berlin Turnpike ("Plaza Azteca Restaurant"), Hector Angel, owner; Manuel Rubio, applicant/contact.

**Findings:**

There was a loud noise complaint filed with the Newington Police Department last year near 12:00 a.m. However, Chief of Police Richard Mulhall stated that "overall it was a good event."

**Conditions:**

1. There shall be no loud music played after 10:00 p.m.
2. The applicant shall hire an off-duty police officer for the evening shift until closing, as was done last year.
3. This approval shall be valid for three years, subject to staff approval. If the applicant wishes to conduct this event again in 2014 and 2015, he shall file notice with the Town Planner not later than March 1<sup>st</sup> of each year.

The motion was seconded by Commissioner Camillo.

Commissioner Anest: I'm not in favor of not having the applicant come before us every year. Also, I would like to see in there that he has to restore the outdoor grass area to the previous condition and are we going to put in here that he does have to get the permits from the town, as a condition?

Craig Minor: We can do that. Let me see if I have, I have last years, let me see if it was in there.

Commissioner Anest: And, why are we only having him get a police officer for the evening shift and not.....

Craig Minor: That was the Chief's recommendation.

Commissioner Anest: I would like to see it for the duration.

Vice-Chairman Camerota: What day does that fall on?

Craig Minor: May 5<sup>th</sup> is a Sunday.

Commissioner Anest: I would like to see a police officer the entire time.

Vice-Chairman Camerota: I agree with limiting the time, I don't want to see it for three years, maybe next year we can do two. I think restoring the ground, we asked last year and they did do it.

Commissioner Anest: Craig, were those two conditions from last year.

Craig Minor: Yes, those were the two that got left off. I don't know how I did, but you caught it. The condition last year was, the applicant shall be responsible for obtaining any other approvals associated with the event (health district, liquor permit, tent permit, etc.) and comply with any of the requirements, and Condition Number 5 from last year was, Following the event, the applicant shall promptly restore the outdoor grass area to the pre-event conditions. So we can include those two conditions, and then change condition number 2 from the applicant shall hire an off-duty police officer for the evening shift until closing, as was done last year, change it to the applicant shall hire an off-duty officer for the duration of the event. And there is a consensus to strike the three year permit part? Okay.

Vice-Chairman Camerota: May I have a motion to accept with the changes stated by Craig.

Commissioner Sobieski moved the motion and it was seconded by Commissioner Hall. The vote was unanimously in favor of the motion, with six voting YES.

**C. Petition 07-13 Special Exception (Section 3.15.3: Outside Restaurant Seating) at 3384 Berlin Turnpike, 2601 Berlin Turnpike, and 548 Cedar Street (Dunkin Donuts) Cary Gagnon, owner/applicant; Anja Skehan, 66 Cedar Street #300B Newington, CT, contact.**

Commissioner Leggo moved to approve, with conditions, Petition 07-13; Special Exception (Section 3.15.3: Outside Restaurant Seating) at 3384 Berlin Turnpike, 2601 Berlin Turnpike and 66 Cedar Street; Cary Gagnon, owner/applicant; Anja Skeham, 66 Cedar Street #300B Newington, CT, contact.

Conditions:

1. A fence or railing be installed between the seating area and the driveway for each site.

The motion was seconded by Commissioner Anest.

Craig Minor: When I started working on this draft suggested motion it was quite long, but the more I thought about it, especially after the applicant submitted that sketch of what the table will look like at the 3384 Berlin Turnpike store, that table is only going to be twenty-five inches wide, so my original concern about people having to get around a fairly large table in the middle of the sidewalk, well, if it's only twenty-five inches wide, and if it is right up against the building, then my concern for people walking around it goes away. So I no longer have the concern, of course, it's up to the Commission, but I no longer have the concern with the 3384 Berlin Turnpike, so my recommendation is that they all be approved with the requirement that Mr. Gagnon put the fence or railing, as appropriate between the seating and the driveway as the case might be, for each of those sites. That's open for discussion.

Commissioner Sobieski: Craig, I thought he was just going to put it at the Cedar Street area. The railing near the tables.

Commissioner Lenares: It wasn't all of them, and one of them he questioned because (inaudible)

Craig Minor: Right, so the Commission's feeling is only at the Cedar Street Location.

Vice-Chairman Camerota: So the motion will be amended to indicate only the 66 Cedar Street location.

Craig Minor: Right.

Vice-Chairman Camerota: Can I have a motion to accept the petition, with revised condition?

Commissioner Camillo so moved and the motion was seconded by Commissioner Anest.

The vote was unanimously in favor of the motion with six voting YES.

**IX. PETITIONS FOR PUBLIC HEARING SCHEDULING (March 27 and April 10)**

- A. Petition 10-13: Special Exception (Section 6.2.4: Freestanding Business Sign) at 505 Willard Avenue, Hartford Hospital Eye Surgery Center, applicant, Newington Realty LLC, owner, Darcy Roy/National Sign, 7 Burning Tree Lane, Wallingford CT, contact.
- B. Petition 13-13: Special Exception (Section 3.2.8 Charitable Event) at 1989 Main Street (Churchill Park) Peter J. Lavery Memorial Scholarship Fund Inc, applicant, Town of Newington owner, Pamela Lavery, 126 Wilks Pond Road, Berlin CT contact.

Craig Minor: We received an application for a free standing sign, at the Hartford Hospital Surgery Center on Willard Avenue. It's, it actually will be two free standing signs, because it is a corner lot. There will be one on Willard and one on Alumni.

Vice-Chairman Camerota: I think that can be scheduled for the March 27<sup>th</sup> meeting.

Craig Minor: The Peter J. Lavery Memorial Scholarship Fund, would like to do their annual motorcycle ride, but as I read the regulations this is something that requires a permit from the Planning and Zoning Commission, it's pretty clear. I talked to the Chairman about it, and he didn't recall doing it in the past, but the regulations are clear, it is a requirement. So I took it upon myself to prepare the application for Mrs. Lavery's signature, I PDF'd it, I e-mailed it to here, explained that this is a requirement, and she was fine, she signed the application and sent it back. She did ask that the fee be waived, so we can talk about that at the next meeting but it is a requirement and has to go through a public hearing, so I recommend that it be scheduled for the next meeting, the 27<sup>th</sup>.

Okay, let's talk about it, I don't want you to think, I'm seeing some puzzled looks, why don't you think it requires a public hearing.

Commissioner Anest: No, not on this, I wasn't puzzled, I was puzzled about something else.

Craig Minor: Oh, okay.

Commissioner Aieta: If it requires a public hearing then you have to remember then that all the rest of them that come in should adhere to the same requirements as this one because there are events on the Berlin Turnpike that do not come to this Commission that have been problems in the past with cars parked almost in the turnpike, people walking in the turnpike, to participate, so there are events, if that is the standard, they have to come, then all of them should have to come.

Craig Minor: Yes, for a non-profit or civic event, yes.



**X. TOWN PLANNER REPORT**

Staff Report

Craig Minor: I put it in front of you, I'll go over it quickly. The first item, façade changes on CVS on Main Street, I have nothing new to report on that, I do need to ask Art what their intent is with that one.

Possible change to the parking lot, 1095 Main Street, I did talk, or I did e-mail the architect today reminding him that the Commission would like them to consider changing the orientation of the entrance, and I asked him if I should be talking to the owner of the property rather than the tenants, and the architect actually responded quickly, he said he would present it to his clients one more time, but I think it also would be appropriate for me to broach the topic with the owner of the property, because ultimately it is the owner of the property who is responsible, the tenants to some extent, but ultimately it is the owner. I've seen myself people trying to enter where they are supposed to leave because they changed the orientation, a lot of people are confused by it.

Commissioner Aieta: Could we go back to the CVS on Main Street? I have some comments on that. I remember when this came into the Commission. They are in violation of the conditions that were proposed for that site. They made concessions to that whole complex there to have that store moved up onto, close to Main Street, and part of those conditions were that the façade and the architecture of that building had to meet standards that this Commission imposed upon them that were in keeping with the Town Center District theme and part of that was those panels in the window, so they are in violation of their approval, so that should be something, it just shouldn't be something that just hangs on, and we have nothing to report. It has to be addressed and the Zoning Enforcement Officer should go and tell them, restore it back to the original condition, or come into the Commission and say why, they shouldn't even have to come to the Commission because it is part of the original, if they want to make a change, then move the building back to where it is supposed to be. I mean, we made concessions for that piece of property that were so advantageous to this applicant that they were allowed to make that building so close to the street and they had to give us concessions, so I think they are in violation of the approval.

Craig Minor: Yes, there is no question about that, and they were told that by the ZEO and they said that they would come in with an application to amend the site plan approval that they got all those years ago, but we haven't heard from them, so I will have the ZEO follow up on that.

Vice-Chairman Camerota: Didn't we contact them once before and told them to put it back the way it was before.

Commissioner Aieta: That's part of the approval.

Vice-Chairman Camerota: Have they been told they should put it back until they get the proper approval?

Craig Minor: Well, definitely not in so many words, and I'm not sure if I was the ZEO that I would tell them that, I would tell them, but it is standard zoning enforcement procedure when you identify a violation and you tell the applicant to comply, and the applicant instead wants to get permission to be allowed to keep it, to give the person in good faith a reasonable amount of time to put together their request to be allowed to keep it. But they haven't done that, and I don't know, Art may be in communication with them and they may be

all set to submit an application. I haven't talked to Art about this in a while, so I will, but they need to do something. It can't go on indefinitely.

Commissioner Aieta: I question even their ability to come back to this Commission to ask for a change in a condition of approval. How do they do that?

Craig Minor: Well, they have to.

Commissioner Aieta: They don't have to. They have to restore it back to the original conditions of the approval. They don't have the luxury of even coming back and asking the Commission, because if that is the case, then let's move the building back to where it is supposed to be on the site.

Craig Minor: And that might be your answer.

Commissioner Aieta: Well, that is the answer.

Commissioner Hall: I have a question on the second one. Right now you enter on the south side, and exit on the north side.

Craig Minor: Right.

Commissioner Hall: Are you talking about, as it was before, entering on the north and exiting on the south side.

Craig Minor: Yes.

Commissioner Hall: If you do, then that sign that we approved tonight is going to be a problem, because right now you have that sign close to the entrance which is not a problem because you are not worrying about traffic, but once that becomes the exit, the sign will be here, it will be difficult to look around, to see the southbound traffic.

Commissioner Anest: And that is why I asked how far it was going to be off the ground. That was my problem.....

Commissioner Hall: It's a very narrow spot.

Commissioner Aieta: I didn't have a comment on that when it came in because I thought, I was not aware that this was coming up, but if they do make, that is a change, then that sign that we just approved is.....

Commissioner Hall: It's going to be a hazard.

Commissioner Aieta: You're not going to be able to see out into the traffic when you pull up.

Vice-Chairman Camerota: It will be on the agenda for next time, and maybe we'll have an answer.....

Craig Minor: And maybe you will end up tabling it.

Commissioner Anest: Right, but let's see if we can get a response, we've given them ample time, and then you make them aware of the signage.

Commissioner Aieta: This change of the parking lot, that was from the Commission, am I correct? You brought that up?

Commissioner Anest: I asked them to take a look at it, because, even though the Fire Department and Police Department looked at it, I kind of agree with the comment that we kind of should get more than just a one line from the Police Chief. I don't think the Police Chief is doing an adequate job in dealing with plans, saying, yeah, it's not a problem. I think there should be a little more substance for our files, because God forbid if there is a major problem, and there is no backup, the town is kind of liable, so.....

Commissioner Lenares: What happens if they say no?

Commissioner Anest: Then they say no.

Commissioner Aieta: Say no to what, this change?

Commissioner Lenares: I'm not saying, I agree with the changes, what if they say no.

Craig Minor: Then we go to the landlord, the owner of the property.

Commissioner Lenares: That's what I'm talking about, forget the tenants, the landlord, the people who own the building, what if they say no?

Craig Minor: Ultimately, we can't make them change it. We can only hope that they want to do the right thing.

Commissioners Lenares: So you need to, I think this has been on our agenda for a little bit, we need to get a response from them, because we can't hold Farmington Savings Bank up with an approval or denial based on whether maybe they are going to change their property design or not. It's not fair to them.

Commissioner Aieta: Well you can't vote on the sign unless you know, have an answer to this.

Commissioner Lenares: I agree, so they need to address their situation, they can't just prolong it.

Commissioner Anest: They need to come back with an answer.

Commissioner Lenares: And it's not my opinion whether to do it or not, they have to either do it, or we should hear from them.

Craig Minor: The next item, the format of the ZEO reports, you have the new format, I think it's the same as I gave you the last time, but this is the process that we are using, and unless the Commissioners have any problem with it, that will be the format we use going forward. The fourth item, at the last meeting I was asked to have Art look into those pick-up trucks, or those cabs in front of 135 Fenn Road and I did ask him to do that the other day, and I haven't talked to him about it yet, but it's on his list of things to look into, and it does look pretty bad. It's actually not on 135 Fenn Road, because the property boundary is at an angle to the street, but if you are looking for it, it's in front of the building at 135 Fenn Road. Old Performance Bonds, I have the latest list, and I have done some more research into some of these, and some of them are definitely in default. Couple of subdivisions by a

certain developer who didn't plant the street trees, so those bonds, I'm going to recommend default. The....

Commissioner Aieta: Which ones are those?

Craig Minor: The ten thousand dollars for.....

Commissioner Hall: Is it number 14 for \$30,000.00? Unless it's 33, nope, that's Culver Street. That's street trees, so those would be all up and down the street, that's number 33.

Craig Minor: Yes, that's the one. I went back into the minutes and the developer was given ample opportunity to plant the trees, and as I understand he said that he had already sold the houses and the new owners didn't want them, which is not uncommon for that developer to do that.

Commissioner Aieta: Have you contacted these people?

Craig Minor: Well, there are several on here that what I'm going to ask the Commission to do is to authorize me to send a letter, and there are several of them, one last warning letter to fix the deficiency or the money will revert to the Town.

Commissioner Aieta: You want to start pursuing this, let's go through them really quickly.

Craig Minor: Number two definitely, I just drove by there and they absolutely never finished the site work in back of, well, it was Foreplay Sports Bar back then, it has a different name now.

Commissioner Aieta: No, that's not....

Craig Minor: Oh, number two, I can't figure out what is missing because it looks like they have done everything the plan calls for I don't know yet why that money is still on hold. But, number four, I will send one last letter to the owner and then tell him that the money will be taken by the town.

Number six, the owner is working on the outstanding issues, some landscaping things. Number seven, I can't believe that a local business would have forgotten about \$37,000.00 in cash, but they seem to have, but I'm not sure what it was they were supposed to do because I haven't been able to get down into the weeds with that one because I don't have a lot of records. I know that, as I have on my note here, that the Commission did vote to reduce it, to \$17,000 on July 8, of 2009 but nothing happened from that point. My office didn't contact the Treasurer to release the money, so it is still there. It's over \$37,000. Hard to believe that someone would just forget about it, but that seems to be the case.

Number nine, this is really interesting. As you Commissioners who have been around, you know that you approved the pad site, well, some of you know, about five years ago, for the shopping center. It never got built, but the site plan is still valid. It's valid for one more year, but this is the property that is being auctioned off next week.

Commissioner Hall: And the bank moved.

Craig Minor: And Malcolm Arnold is deceased, no, I'm sorry, declared bankruptcy, so I don't even know who owns that money at this point. Does it belong to his creditors, I'm going to talk to the Town Attorney about that one, but I would suggest that we should just return the money because it isn't as if they got ninety percent through a site plan and then decided to

blow off the remaining. He never even built it, well, first I need to contact him to ask him if they consider the site plan to still be valid. I mean it is, legally, but I should contact the owners to ask them if they even know that it is still valid. Are they auctioning it that way, as with an approved pad site, I've told the people who come in here and ask for information about it that there is an approved pad site. I've told anybody who asks, but I'm not sure the owners remember, it's in a trust, so I'm not sure they even know that they have an approved pad site.

Commissioner Sobieski: I thought there was some work done out there, wasn't there at one time, Cathy?

Commissioners Hall: Yeah, they cleared it, that was about it. They put like a little outline of where it was going, but that's it.

Commissioner Aieta: You better be careful on this, you had better talk to the Town Attorney, that Malcolm Arnold, I don't know if he was LLC, but I know that he went through a bankruptcy.

Craig Minor: I know that it was he specifically who made the deposit, who paid the money. That's why his name is there because that's what the finance department record showed.

Commissioner Aieta: You want to talk to the attorney and then send him a letter and see if we can clear this up?

Craig Minor: Yes, exactly.

Now, Three Angels Church, this is still fairly recent, 2010, and I think they still consider it a valid site plan, and they're not ready to abandon it yet, so I suppose we just need to hold onto the money, because they do have five years to finish the site plan by statute.

Okay, the next three I don't have anything new on and I still haven't figured out why we still have the money from them, but 95 Waverly Drive, that one again, same developer, apparently the driveway was built too far to the side, and they were told to either jack hammer off the extra blacktop or buy some land from the neighbor, but do something, to provide the five foot separation. Apparently they never did. So, they will be getting a letter from me, giving them one last change to do the right thing, otherwise the money will revert to the Town.

Commissioner Aieta: Number fifteen, L.A. Fitness?

Craig Minor: I don't have any new information. I'm spending like an hour or two a week on these, I'm not spending all my time of them because obviously I have other things that need my attention.

Number thirty-three, Moretco, I'm dropping down because I have no new information on the ones that I am skipping over. I mentioned I think at the last meeting that we don't know whose money this is. I asked the Finance Department if they had any more information about this, and all they knew was that it was somehow associated with the Malone and McBroom project, and that there were about a half a dozen payments made, somehow associated with this; I asked the Town Engineer if he knew anything about it, and he did not. I might contact Malone and McBroom and ask them if they remember anything about a project back in 2006 that they did in Newington, that for some reason we would be holding money on.

Commissioner Hall: They were involved with the streetscape.

Craig Minor: Does that name mean something to you.

Commissioner Hall: They were involved with the streetscape project, Main Street and Market Square.

Craig Minor: Moretco?

Commissioner Hall: I don't know if that's what they called it, but Malone and McBroom were involved in something.

Craig Minor: It was the streetscape project?

Commissioner Hall: It was the façade.....

Craig Minor: Oh, okay.

Commissioner Aieta: So are you going to send letters to these other ones that we haven't, that we haven't talked about?

Craig Minor: No, not until I figure out what the problem is.

Commissioner Aieta: Oh, okay, so we will just keep bringing back....

Craig Minor: Chipping away, and number thirty-three I am definitely going to, well, I'll give them one last chance, but that money, that should be deferred to the town, because at this point he can't plant trees, the homeowners said no, or said no back in 2007 when this money was first put up.

Commissioner Hall: Never figured out Target, what that \$10,000.00 was.

Craig Minor: That one I actually haven't spent any time on since the last meeting.

Commissioner Hall: Would Ann have records on these?

Craig Minor: Yes, as I said, I'm just doing a few of them every week. Going back to my memo, number three, status of Modern Tire appeal, the Commission knows that Attorney Bradley is preparing his brief which he will be submitting on Friday I think.

Number four, status of Newington Walk subdivision, as you all know, the Conservation Commission denied the application, Toll Brothers has thirty days to appeal it, and so we will have to wait and see what they will do. Whether they will appeal it, whether they re-apply, or whether they just abandon the project.

Number five, Newington Junction Planning Study, I have nothing new since my last report. Number six, Low Impact Development Regulation Project, the Committee review the four most qualified respondents to the RFP yesterday and selected the team of Fuss and O'Neil and Planometrics, Glenn Chalder. We will be meeting with them in the next few days to finalize the scope of services.

Finally, the blight ordinance, I was asked by someone for the names of the people who are the appeals board. They are Chris Nysinik, Chris Banach and Rod Mortensen. That's my report for this month.

## **XI. COMMUNICATIONS**

None

**XII. PUBLIC PARTICIPATION** (for items not listed on the agenda, each speaker limited to two minutes.)

Anja Skehan, 66 Cedar St: I am from Cary Gagnon, and you just voted for the restaurant, but the only problem is that you had the wrong address, the right address is 548 Cedar Street, the administrative offices are at 66 Cedar Street.

Craig Minor: Okay. Thank you. I'll make sure the COA has the right address.

Domenic Pane, 638 Church Street: Madam Chairman, I want to congratulate you, you're doing an excellent job as Chairman conducting this in a very efficient manner. I have to points, one is the sign on the trucks on the Berlin Turnpike that have been there for months, and I understand that the trucks are supposed to be registered, they're not all registered. How long does it take for our Zoning Enforcement Officer to find out if the truck is registered or not?

The next thing would be sureties, which is bonds. It was stated that they had five years to work on the bonds. They have five years to complete the site plan work, but as far as surety, the bonds, if you look at your regulations, 7.3.1. E, the time period for the completion of site improvements covered by a posted surety should not exceed one year. If the work is not completed in that one year, the Commission shall instruct the Manager to notify the developer that the improvements are incomplete and that the surety will be expended by the Town in an effort to complete the improvements or they have to answer to him. So you don't have to wait five years for these surety bonds. Just wanted to put that out to you, thank you very much.

Craig Minor: Those billboard on the sides, want to talk about that?

Commissioner Anest: Yes, the sign committee has been addressing those issues, and we were supposed to meet today and didn't, we'll meet again in two weeks, but that has been brought up in our committee meetings, the banner and signs on trucks, it has been brought to our attention and we are working on it and Craig is also looking into language for our regulations regarding signs on trucks, trying to find a way that we can control it.

Rose Lyons, 46 Elton Drive: I don't know if you consider CVS as part of the agenda or not, but just a general comments. I have asked on previous occasions, how do you, as a Commission see to it that the conditions that you put on your approval are met, and in my opinion if you make conditions part of an approval of the application, and then five, ten years later, they go to change something, there should be no recourse for them, they should just be made to change it to the way that it is supposed to be. I mean, unless your regulations change, I don't think personally think they should be allowed to change the look of the building. That was part of the conditions. I think the Zoning Enforcement Officer should have some kind of leverage, whether it be CVS or some smaller business, to go in there and say, look, this is what you agreed to, and this is what you should do. As to the free standing sign at Farmington Savings Bank, back a while I asked that you put something up that we could see, Farmington Savings Bank is the one that is looking for the special exception, they're the ones that you are asking to change the parking, and with all due respect to the Commission, it's my understanding that you agreed to the way that the parking is, and now it is a problem. It's after the fact. It's kind of hard to picture, it's kind of hard to see how the traffic is going to flow until it actually happens, but there has to be give and take here, Farmington Savings Bank I would think should come up with an answer before you vote on that free standing sign, because it will make a difference. Thank you.

**XIII. REMARKS BY COMMISSIONERS**

Commissioner Aieta: On the issue of bonds that Domenic brought up, that is what the regulations say, that they have a year, and that is why we are going through all of these things to clean them up. We should adhere to what the regulations say. We should continue to have this list, and when they post the bond, when the year comes up, we should get the list and make a determination that either we pull the bond, or we should contact them and say, okay, your time is almost up, complete the work, or we're going to pull the bond, but some of these that are on this list here go back, these are problem ones, and we are just have to work through all of these now and keep adding to the list and as they come up we are going to have to adhere to the regulations or change the regulations. It does say what he said it says. It says they have a year, and if they don't do the work in a year, then they get a warning, and then we pull the bond and do the work. The problem is, if we don't do that, is that we get stuff that is ten years old, and the money that we are holding can't complete the work that it was intended for.

Craig Minor: These are all cash bonds that we talked about today.

Commissioner Aieta: The last thing I want to talk about is the residential piece of property on Main Street. If that is truly in the PD Zone then this Commission or whoever, when we made the zone map we made a big mistake because that piece of property should have been left in the residential zone so that we have the consistency of a residential zone on Main Street, then it moves into the PD Zone closer to the turnpike. I mean, to bring the PD Zone right up to Main Street is, we just keep encroaching more and more and more onto these people. I mean, I don't know how, is there a mechanism that we could change that? Could we change it back to a residential zone so we keep that piece of property as a residence zone so we at least give these people some semblance of consistency in their own neighborhood?

Craig Minor: Yes, the Commission can do it.

Commissioner Aieta: I think there was a mistake made when they drew the line. Sometimes when you, when we look at these maps and we start making changes they follow property lines to determine the line of the zone line, and they follow property lines and sometimes we, because of the size of the maps and everything, they make mistakes, and I think this is a mistake.

Commissioner Anest: I think it dates back to....

Commissioner Aieta: I291.

Commissioner Anest: Because they did that with a condition that they would be able to use that as non-residential. That was not a residence.

Commissioner Sobieski: I think it was supposed to be torn down.

Commissioner Anest: Well it was, but then they decided not to and they were using it for another issue, so I think we should look into seeing how we can, a public hearing, for a zone change.

Craig Minor: Well, it's just a matter of doing it. It's just a matter of the Commission directing me to prepare a map amendment, public hearing, the whole nine yards, but you definitely have the authority to change the zone, anywhere in town.



Commissioner Aieta: Yeah, I would hate to see the property, then sell it to someone and then someone come in here and start presenting a site plan of a 7-11 store on that piece of property, or something else, which they, it's approved under that PD Zone, there's a lot of stuff that you can put in. I'd rather take the initiative and make the change now so that people, no one gets fooled that buys the piece of property thinking this is a PD Zone and I can do this, this, this and this, and they come before us and we're in a situation of denying people because.....

Commissioner Lenares: Who owns it now?

Commissioner Aieta: The state. The State of Connecticut

Commissioner Lenares: What is their assumption that this piece of property will.....

Commissioner Aieta: Well, it's in that thing.....

Commissioner Lenares: So it's not a privately held piece.

Commissioner Hall: No, it's the State of Connecticut.

Commissioner Lenares: I think that's a big.....

Commissioner Aieta: And they are trying to sell it now, right?

Craig Minor: They are, but I was told by Art and I haven't read this carefully, that first of all the town was supposed to get right of first refusal, and I don't know whether the Town Council has been offered this. I just don't know. But, Art told me because he has been in contact with the DOT about this for a while, that the folks at the DOT that he has been talking to, told Art that the DOT intends to tell prospective buyers or bidders that it may not be used residentially. So whoever buys it knows that he or she is not buying a house, he or she is buying a building in the PD Zone.

Commissioner Sobieski: But how would that affect, if they were to sell it tomorrow, and we changed that to residential.....

Craig Minor: Well, you can't change it over night, it would take you about two months, but what will happen is if you change it two months from now, it will be whatever you change it to, and whoever buys it today is obviously going to have something to say about that zone change.

Vice-Chairman Camerota: If there is a pending zone change on it, and someone is under contract to buy it, would that show up in a title search.....

Commissioner Hall: Pending, no.

Commissioner Anest: Yes, if you are a good title searcher you would go to the public building codes, if you are a good title searcher.

Vice-Chairman Camerota: But it's not your typical situation.

Commissioner Sobieski: Should we find out if the town has had the right of refusal.

Commissioner Aieta: It doesn't sound like it. I don't know where the town is, but the town should have grabbed that piece of property if they offered it for nothing. Why didn't we take it.

Commissioner Anest: They didn't offer, we had the right of first refusal on it, they didn't offer it for free. It's not free.

Commissioner Aieta: Oh, I think some of that property, the 1291 property, the Town of Newington got for nothing. I know the piece on the corner of Willard and.....

Commissioner Hall: Billy Ciotto got that.

Craig Minor: Newington has the opportunity to buy it for \$265,000, first. Which explains why the Town Council wasn't jumping on it.

Commissioner Aieta: That's probably why.  
You want to move forward as a Commission and make the change to that piece of property and put it back in the residential zone.

Commissioner Anest: I think we should start doing it now. Be pro-active on this before they start getting a number of bids.

Craig Minor: Well, bids are due April 17<sup>th</sup>.

Commissioner Sobieski: I agree with Carol that we should move in that direction.

Commissioner Lenares: I think specifically because it is owned by the State. If it was owned by a private owner, I think it would be a whole other ball of wax, but since it's owned by the State, you're not pulling a piece of property from a business owner, I think you should, in order to protect those residents.

Commissioner Aieta: Now, if we proceed with this, they would be notified, the State would be notified that we are proceeding on the change for their piece of property, and maybe they, this is not until April, they would have to tell the people that are buying it that the Town is looking at making a zone change, and that would probably be a good thing for the prospective buyer.

Vice-Chairman Camerota: The first public hearing would be April 10<sup>th</sup>, right, that we could have on the zone change? We could talk about the application next meeting.....

Craig Minor: Right, schedule the public hearing for the following meeting.

Commissioner Anest: They would be notified, right?

Craig Minor: Yes, I'd have to look through the regs to see what the notification process is, for a zone change, this will be my first one in Newington, but obviously the owner will be notified.

Commissioner Aieta: Can we get it so they would be notified before the sale? That they would be notified that we are looking at a zone change? What's their time frame, April 15<sup>th</sup>?

Craig Minor: April 17<sup>th</sup>. Bids must be received before 2:00 pm on Wednesday, April 17<sup>th</sup>.

Commissioner Aieta: Well let's move on it and let's do something.

Craig Minor: All right, and then in the meantime, I'll send a letter to DOT tomorrow telling them about what we just discussed and let them know that it is the Commission's intent to hold public hearings as soon as possible on the possible zone change.

Commissioner Anest: And could you pull the file just to make sure that that is actually the zone that it's in.

Commissioner Aieta: I would have bet that that was in a residential zone. I didn't think the line cut that far into Main Street like that.

Commissioner Hall: It had to be at one point. That was Petanovich's home. That was Petanovich, and they owned the whole area back there.

Vice-Chairman Camerota: Any further comments from Commissioners?

Commissioner Leggo: On the signs on trucks, I just wanted to make a comment that it seems like there are more and more, just in the last two weeks I've seen a handful of trucks pop up with the signs for the companies. I think it's kind of important we know what is legal.

**XIV. CLOSING REMARKS BY THE CHAIRMAN**

None

**XV. ADJOURNMENT**

Commissioner Sobieski moved to adjourn the meeting. The motion was seconded by Commissioner Camillo. The meeting was adjourned at 8:45 p.m.

Respectfully submitted,

Norine Addis,  
Recording Secretary